

**INVITATION FOR BID #3160004457 PRINTING AND BINDING SERVICES  
MISSISSIPPI OFFICIAL AND STATISTICAL REGISTER (Blue Book)**

ISSUE DATE: July 26, 2021

ISSUING AGENCY: Mississippi Secretary of State's Office  
125 S. Congress Street, Suite 1600  
Jackson, Mississippi 39201

Sealed Bids, subject to the conditions made a part hereof, shall be received by **Monday, August 26, 2021, at 10:00 AM (CDT) in the Secretary of State's Office at 125 S. Congress Street, Jackson, Mississippi, 39201**, for furnishing services described herein. It is the Respondent's responsibility to ensure that all addenda have been reviewed and, if applicable, signed and returned.

**IMPORTANT NOTE:** Indicate firm name and Invitation for Bid #3160004457 on the front or the Subject Line of each bid envelope, package, or electronic mail.

Direct all inquiries concerning this Invitation for Bid to:

Lisa Moore  
Mississippi Secretary of State's Office  
125 S. Congress Street, Suite 1600, Jackson, Mississippi 39201  
Email: [Lisa.Moore@sos.ms.gov](mailto:Lisa.Moore@sos.ms.gov)

**GENERAL CONDITIONS**

The Mississippi Secretary of State ("MSOS" or "Secretary") seeks a vendor to provide printing and binding services for the Mississippi Official and Statistical Register, hereinafter referred to as the Blue Book, in accordance with Miss. Code Ann. §39-5-15, which states: "An official and statistical register of the State of Mississippi shall be compiled by the Secretary of State after each general election, to contain brief sketches of the several state officials, the members of Congress from Mississippi, the Supreme Court and Court of Appeals judges, the members of the Senate and House of Representatives of the State of Mississippi; a roster of all state and county officials, lists of all state institutions, with officials; state and county population and election statistics, and miscellaneous statistics." Signed, sealed (or emailed) bids will be accepted until **10:00 AM CDT, Monday, August 26, 2021**, at 125 S. Congress Street, Suite 1600, Jackson, Mississippi, 39201, [Lisa.Moore@sos.ms.gov](mailto:Lisa.Moore@sos.ms.gov).

The 2016 - 2020 Mississippi Official and Statistical Register was published in print and electronic form. The printed Blue Book was published as a perfect bound and case bound book. The Blue Book was also published in interactive and static versions on the MSOS website. The 2016 - 2020 Blue Book may be viewed at [www.sos.ms.gov](http://www.sos.ms.gov).

Secretary desires to enter into an agreement for printing and binding services for production of the 2020-2024 Mississippi Official and Statistical Register (Blue Book).

The MSOS anticipates publishing approximately 550 pages each per copy.

Additional information about the Mississippi Secretary of State's Office may be found at our website [www.sos.ms.gov](http://www.sos.ms.gov).

#### **Inquiries About Invitation for Bid**

Prospective respondents may make written inquiries concerning this Invitation for Bid to obtain clarification of requirements. Please send inquiries to Lisa Moore via electronic mail at [Lisa.Moore@sos.ms.gov](mailto:Lisa.Moore@sos.ms.gov). Inquiries will be answered individually to the respondent submitting the inquiry, within two (2) business days. All inquiries should be marked:

**"URGENT INQUIRY" Mississippi Secretary of State's Office, Invitation for Bid #3160004457 Printing and Binding Services MISSISSIPPI OFFICIAL AND STATISTICAL REGISTER.**

Acknowledgement of Amendments: Respondents shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid, by identifying the amendment number and date in the space provided for this purpose on the bid form, or by letter. The acknowledgement must be received by the Secretary of State by the time and at the place specified for receipt of bid.

#### **Addendum or Supplement to Invitation for Bid**

- A. In the event it becomes necessary to revise any part of this Invitation for Bid, an addendum to this Invitation for Bid will be sent to potential Vendor group. Respondents shall not rely on any other interpretations, changes or corrections in the formation or submission of their bid.
- B. Additional terms and conditions submitted with the bid are of no effect unless accepted in writing by the Mississippi Secretary of State's Office. In the sole discretion of the Mississippi Secretary of State's Office, bids containing any additional terms and conditions may be rejected as nonresponsive.

#### **Administrative Information**

##### **A. Issuing Office**

This Invitation for Bid is issued by the following office:

Mississippi Secretary of State's Office

Finance Division

125 S. Congress Street, Suite 1600, Jackson, Mississippi 39201

##### **B. Schedule of Critical Dates**

The following dates are for planning purposes only unless otherwise stated in this Invitation for Bid. Progress towards their completion is at the sole discretion of the Mississippi Secretary of State's Office.

<b><i>Invitation for Bid Initiated</i></b>	Tuesday, July 26, 2021
<b><i>Advertisement #1 – Clarion Ledger &amp; MS Procurement Technical Assistance Program (MPTAP)</i></b>	Monday, July 26, 2021
<b><i>Advertisement #2 – Clarion Ledger &amp; MS Procurement Technical Assistance Program (MPTAP)</i></b>	Monday, August 2, 2021
<b><i>Bid Submission Deadline</i></b>	10:00 AM CST, Thursday, August 26, 2021
<b><i>Bid Opening</i></b>	Friday, August 27, 2021
<b><i>Proposed Award Date</i></b>	Tuesday, August 31, 2021
<b><i>Proposed Contract Effective Date</i></b>	Wednesday, September 1, 2021

### **General Requirements**

- A. Secretary reserves the right to reject all bids.
- B. In case of default of vendor, Secretary reserves the right to purchase any or all items and/or services in default in open market, charging contractor with all costs.
- C. All materials, products and/or services offered must be guaranteed to meet the requirements of the specifications referred to in this Invitation for Bid.
- D. Secretary reserves the right to make an award which is determined to be in the best interest of the State of Mississippi.
- E. Vendor certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other proposer or competitor relating to those prices, the intention to submit a bid or the methods or factors used to calculate the prices.
- F. The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of law's provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.
- G. The contract shall be governed by the applicable provisions of the Mississippi Procurement Manual set forth by the Mississippi Public Procurement Review Board and the Office of Purchasing, Travel and Fleet Management, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.

### **INSTRUCTIONS AND SPECIAL CONDITIONS**

- A. At a minimum, the following items should be included in the contents of the Bid:
  - 1. A cover letter indicating the scope of the bid. The letter should include a statement indicating acceptance of the Service Agreement and clearly identify any proposed revisions or modifications to the standard contract. The letter should include a statement of exceptions to any of the terms and conditions outlined in this Invitation for Bid. Cover letter should be no more than three (3) pages in length.
  - 2. Corporate Structure, Credentials and Prior Experience (**failure to respond each item below, may affect your evaluation**)
    - a. The number of years of experience in printing and production services;

- b. A minimum of three (3) major customers for whom Respondent has provided similar services in size and scope, including contact information for each customer;
  - c. A listing of all major accounts terminated in the past five (5) years with reason for termination and customer account contact information;
  - d. Staffing levels and support proposed to implement the project requested of this Invitation for Bid. Describe the composition of the production team assigned to work with the Mississippi Secretary of State's Office to produce the Blue Book, including a description of the relevant experience of those involved;
  - e. Respondent shall provide a service manager assigned as the point of contact to the Mississippi Secretary of State's Office for all inquiries or concerns related to the project, including service issues or interruptions and billing disputes or questions, etc.; and,
  - f. The office location to be used for printing and binding must be identified in the response (physical address of office) as well as specific information on the processes, experience, and equipment to be used at such location(s).
  - g. Signed Bid Forms for print and reprint, as set forth in **Exhibits B & C**, respectively.
3. Operations and Ability to Perform  
Provide detailed discussion related to vendor's ability to meet the requirements of this Invitation for Bid as set forth in **Exhibit A, Specifications**.

**B. Samples**

- 1. At a minimum, provide three (3) bound samples relating to the scope of services as provided in this Invitation for Bid. All provided illustrative samples must be produced at the same facility proposed for the printing and binding of the Blue Book. Each sample must be labeled with the criteria the sample is illustrating along with the date of production, location of production and the name and contact information for the facility where the product was produced. Client information for each sample must be provided along with contact phone number and email address. Samples will be evaluated on an Acceptable/Not Acceptable basis with Acceptable defined as quality which meets the Mississippi Secretary of State's publication standards for this specific project.

**COST REQUIREMENTS**

- A. Vendor certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication or agreement with any other vendor or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices in its bid.

- B. Vendor's proposed cost shall be inclusive of all services and materials (binding, photocopies, etc.), travel expenses, per diem, digital image retrieval and/or conversion of images, design and/or all other expenses and incidentals incurred by the vendor in the provision of services requested in this Invitation for Bid.
- C. Vendor shall provide cost with subtotals for each deliverable as well as a total price, in the form described in Exhibit C below.
- D. Vendor shall provide a project schedule with benchmarks for production measurements upon which payment will be made.
- E. Respondents shall submit their Cost Bid in the manner described in Exhibits B & C.

### **SPECIFICATIONS (See Exhibit A)**

### **EVALUATION**

A selection committee shall review and evaluate all responses. The committee will have only the response to the solicitation to review for selection of the finalists. It is therefore important that respondents emphasize specific information pertinent to the work.

- A. Bids for the printing and binding of the Blue Book will be evaluated on the following factors:
  - The plan for performing required services **20%**
  - Ability to Perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services **20%**
  - The personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting **10%**
  - A record of past performance of similar work, samples (a minimum of three (3) samples must be provided) **20%**
  - Cost **30%**
- B. MSOS reserves the right to request additional information or clarification of a bid. The Vendor's cooperation during the evaluation process in providing the MSOS staff with adequate responses to request for clarification will be considered a factor in the evaluation of the Vendor's overall responsiveness. Lack of such cooperation or failure to provide the information in a manner required may, at the Secretary's discretion, result in the disqualification of the Vendor's bid.

- C. MSOS reserves the right to request oral presentations if additional information and/or clarification is required.

#### **AWARD**

- A. If a satisfactory contract cannot be negotiated with the highest qualified Vendor, negotiations will be formally terminated in writing. Negotiations shall then be undertaken with the second rated Vendor and so on.
- B. A contract and purchase order will be issued after the award and will become an integral part of the contract process.
- C. A written notice to proceed will be issued prior to commencement of services.
- D. The awarded respondent(s) will be expected to enter a contract that is in substantial compliance with the Mississippi Secretary of State's Office's contract (See Service Agreement). Proposals should include any desired changes to the contract. Some clauses are prohibited by applicable state law from revision. Significant changes to the contract may be cause for rejection of a bid.

#### **BID SUBMISSION**

- A. Bids shall be submitted via hand delivery, US Mail, or electronic mail (if sending via electronic mail, samples will need to be sent separately as hand delivery or US mail delivery).
- One (1) original and four (4) copies of technical and cost bids should be sealed in a package with **"Invitation for Bid # 3160004457 Printing and Binding Services MISSISSIPPI OFFICIAL AND STATISTICAL REGISTER"** in the lower left-hand corner. Each submitted package should be a complete copy. The original shall be marked on the first page "Original."
- B. The bid package (including samples) must be received on or before **10:00 AM CDT, Thursday, August 26, 2021**. It is the responsibility of the respondent to ensure that the bid package arrives in the Finance Division on or before the published deadline. The bid package should be delivered, sent by US mail, or emailed to:

Mississippi Secretary of State's Office  
Attention: Lisa Moore  
125 S. Congress Street, Suite 1600  
Jackson, Mississippi 39201  
[Lisa.Moore@sos.ms.gov](mailto:Lisa.Moore@sos.ms.gov)

- C. Respondent's bid must include the signature page included in this Invitation for Bid and contain the signature of an authorized representative of the respondent's organization. The signature on the "Original" signature page should be in [blue](#) ink.
- D. The Mississippi Secretary of State's Office reserves the right to reject any and all bids and to waive informalities and minor irregularities in bids received and to accept any portion of a bid or all items bid if deemed in the best interest of the Mississippi Secretary of State's Office to do so.
- E. Bids received after the stated due date and time will be returned unopened. Submission via facsimile will not be accepted.
- F. Bids shall be valid for one-hundred and twenty (120) days following the above stated due date.

This Invitation for Bid in no manner obligates the Mississippi Secretary of State's Office to the eventual purchase of any services described, implied or which may be proposed until confirmed by a written contract and purchase order. Progress towards this end is solely at the discretion of the Mississippi Secretary of State's Office and may be terminated without penalty or obligation at any time prior to the signing of a contract. The Mississippi Secretary of State's Office reserves the right to cancel this Invitation for Bid at any time, for any reason, and to reject any or all bids or any parts thereof.



**Michael Watson**  
**SECRETARY OF STATE**

**Exhibit A**

**SPECIFICATIONS**

**Quantity:** The Mississippi Secretary of State's Office requests bids related to printing and binding services for the 2020 - 2024 Mississippi Official and Statistical Register, also known as the "Blue Book." Respondent's bid must contain pricing based on the quantities listed below. \*

- 5,000 Blue Books purchased with 4,650 perfect bound and 350 case bound;

\* Quantities referenced above are not a guarantee of service levels to be provided under the awarded agreement resulting from this Invitation for Bid.

Respondent's bid should provide detailed information outlining and describing its ability to meet or exceed the following specification requirements:

**1. Printing.**

1.1 Size: 6 inches x 9 inches

1.2 Paper:

1.2.1 **Covers:** NewPage Sterling Premium Gloss 100# Cover for the perfect bound. The standard-grade cloth color for case-bound copies will be selected by MSOS after award of the RFP.

1.2.2 **Inside Text Pages:** NewPage Gusto Satin 70# Text or Altima Satin 70#.

1.3 Press:

1.3.1 **Outside Front and Back Cover:** 4-color process, plus an overall/flood gloss aqueous coating with bleeds. Foil stamp front cover and spine, case bound only. Foil to be selected by MSOS after award of the RFP.

**Inside Front and Back Cover:** No printing.

**Inside Text Pages** shall contain approximately 520 to 550 text pages.

**Inside text pages** will have a combination of 1-color printing (black) and 4-color process, plus an overall/flood satin aqueous coating. There will be approximately 115 pages (of the 550 inside text pages) that will print 4-color process (not including cover), and approximately 25 of the 115, 4-color text pages will include bleeds. The remainder of the inside text pages will print 1-color (black) with no bleeds, plus an overall/flood satin aqueous coating.

1.3.2 Specifications in this section are subject to change based on the final design of the publication.

## **2. Binding.**

### **2.1 Perfect Bound**

### **2.2 Case Bound:**

2.2.1 Smythe sewn and case bound utilizing standard grade cloth, foil stamped on cover and spine.

2.2.2 Respondent shall provide in its proposal a bound sample with actual paper to be utilized in the provision of services for testing and approval by MSOS. The sample shall be approximately 550 pages and contain the actual binding process to be utilized.

2.3 Durability of binding will be tested by MSOS and include repeated opening and closing, as well as dropping from desk height.

2.4 Respondent's proposal shall include a sample of the proposed cloth with foil stamping to be utilized in the provision of services. MSOS shall select cloth and foil colors and have final approval before the stamping and binding process begins.

## **3. Proofs.**

3.1 Final pages will be created in Adobe InDesign.

3.2 Pages shall be created individually. Impositioning, trapping and any other specific press compensations will be Respondent's responsibility.

3.3 The awarded Respondent shall provide composite color proofs for final sign-off. Color proofs need to be color-accurate for press approval purposes.

3.4 MSOS's and awarded Respondent's signatures are required for press approvals. If Respondent is located outside the Jackson Metropolitan Statistical Area, include all costs associated with press approvals for three (3) individuals for the duration of the press approval process. Costs should include mileage, meals, lodging and any additional anticipated expenses. The awarded Respondent shall be reimbursed for any travel expenses in accordance with the policies and procedures as set forth by the Mississippi Department of Finance and Administration (DFA). Within ten (10) calendar days of print completion, the awarded Respondent shall furnish the final (collected and packaged) publication in Adobe InDesign CC 2015 (11.2), to the MSOS.

3.5 Within ten (10) calendar days of print completion, the awarded Respondent shall furnish the final publication in Adobe PDF to the MSOS.

3.6 It is the intent of these deadlines that proofs shall be supplied in both directions on a continuous basis as the work is completed. The MSOS will proofread all pages and issue final approval before printing. More than one proofing cycle may be necessary before final approval is given. Additionally, MSOS and its creative consultant must be allowed to participate in on-site press checks throughout the production period and may direct the awarded Respondent to make needed press adjustments and corrections to any issues identified during the printing process.

## **4. and Order Fulfillment.**

4.1.1 The awarded Respondent shall deliver the case bound and perfect bound Blue Books to MSOS.

4.1.2 4,650 perfect bound Blue Books shall be delivered to the seventeenth (17) floor at the MSOS office located at 125 S Congress Street, Jackson. There is a loading dock next to this location, on the West side of the building.

4.1.3 350 perfect bound Blue Books shall be delivered to the seventeenth (17) floor at the MSOS office located at 125 S Congress Street, Jackson. There is a loading dock next to this

- location, on the West side of the building.
- 4.1.4 Receiving signatures are required at MSOS office locations. The awarded Respondent is required to provide copies of signed delivery tickets to the MSOS within ten (10) calendar days of each delivery.
  - 4.1.5 Delivery shall be inside delivery to the seventeenth (17) floor at the MSOS office located at 125 S Congress Street, Jackson.
  - 4.1.6 After MSOS has given the final approval of proofs for printing, delivery shall be accomplished within forty-five (45) calendar days for perfect bound Blue Books and within sixty (60) calendar days for case bound Blue Books.
  - 4.1.7 The Blue Books shall be boxed by binding type in cartons weighing less than 35 pounds (lbs.) per carton and marked to identify contents. The awarded Respondent shall notify the MSOS 24 hours prior of delivery.



**Michael Watson**  
**SECRETARY OF STATE**

**Exhibit B**

<b>2020 - 2024 Mississippi Official and Statistical Register</b> <b>Invitation for Bid # 3160004457</b> <b>BID FORM</b>			
<b>2020 - 2024 Mississippi Official and Statistical Register</b>		<b>Unit Price</b>	<b>Total</b>
Printing	Approx. 550 Pages		
Binding	4,650 Perfect Bound		
	350 Case Bound		
Delivery and Order Fulfillment	Per Blue Book		
Additional Costs	Respondent must disclose any additional costs that may be associated with this project		
<b>Total Cost - 5,000 Perfect and Case Blue Books (Approx. 550 Pages)</b>			
Respondent			
Authorized Signature			
Print Name and Title of Authorized Signature Date			

**MS VENDOR NUMBER:** \_\_\_\_\_

*If vendor number does not exist, Vendor must provide a completed and signed W-9 with proposal.*



**Michael Watson**  
**SECRETARY OF STATE**

**Exhibit C**

<b>2020 - 2024 Mississippi Official and Statistical Register</b> <b>Reprints – Invitation for Bid # 3160004457</b> <b>BID FORM</b>			
2020 - 2024 Mississippi Official and Statistical Register		Unit Price	Total
Printing	Approx. 550 Pages		
Binding	4,650 Perfect Bound		
	350 Case Bound		
Delivery and Order Fulfillment	Per Blue Book		
Additional Costs	Respondent must disclose any additional costs that may be associated with this project		
<b>Total Cost - 5,000 Perfect and Case Blue Books (Approx. 550 Pages)</b>			
Respondent			
Authorized Signature			
Print Name and Title of Authorized Signature Date			

**MS VENDOR NUMBER:** \_\_\_\_\_

***If vendor number does not exist, Vendor must provide a completed and signed W-9 with proposal.***



**Michael Watson**  
**SECRETARY OF STATE**

**Exhibit D**

**SERVICE AGREEMENT**

**THIS AGREEMENT** is made this day between the Mississippi Secretary of State, MICHAEL WATSON (hereinafter referred to as "SECRETARY") and **Contractor** (hereinafter referred to as "CONTRACTOR"), located at **Contractor's Address**

In consideration of the mutual benefits and advantages to each other, SECRETARY desires to engage CONTRACTOR for the purposes and for the time period set forth below and CONTRACTOR agrees to perform the services in accordance with the terms and conditions of this Agreement.

**Article I. SCOPE OF SERVICES**

CONTRACTOR shall provide **Scope of Service**

CONTRACTOR represents and warrants that the services performed shall be of professional quality consistent with and in accordance with generally accepted industry standards for the performance of such services.

**Article II. PERIOD OF PERFORMANCE**

Unless this Agreement is extended by mutual written agreement of the parties or terminated as prescribed elsewhere herein, this Agreement shall begin on **Start Date** and end no later than **End Date**.

**Article III. CONSIDERATION AND PAYMENT**

As consideration for the satisfactory performance of those services contemplated by this Agreement, SECRETARY agrees to pay and CONTRACTOR agrees to accept as total compensation, as described in Exhibit B for all services rendered pursuant to this Agreement an amount **NOT TO EXCEED ZERO DOLLARS AND 00/100 (\$0.00)** in accordance with the following rates:

CONTRACTOR shall at all times be regarded as and shall be legally considered an independent CONTRACTOR and neither CONTRACTOR nor its employees shall, under any circumstances, be considered servants, agents or employees of SECRETARY, and SECRETARY shall at no time be

legally responsible for any negligence or other wrongdoing by CONTRACTOR, its partners, principals, officers, agents, employees, or representatives. Nothing contained in this Agreement shall be deemed or construed as creating the relationship of principal and agent, partners, joint ventures, or any similar relationship between SECRETARY and CONTRACTOR. At no time shall CONTRACTOR be authorized to do so and at no time shall CONTRACTOR act as an agent for SECRETARY.

#### **Article IV. APPROVAL**

It is understood that if this contract requires approval by the Public Procurement Review Board (PPRB) and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review (OPSCR), and this contract is not approved by the PPRB and /or OPSCR, it is void and no payment shall be made hereunder.

#### **Article V. PAYMODE**

Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of CONTRACTOR'S choice. The State may, at its sole discretion, require CONTRACTOR to electronically submit invoices and supporting documentation at any time during the term of the Agreement. CONTRACTOR understands and agrees the State is exempt from the payment of taxes. All payments shall be in United States currency.

#### **Article VI. E-PAYMENT**

CONTRACTOR agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The SECRETARY agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the SECRETARY within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-301 *et seq.*

#### **Article VII. E-VERIFICATION**

If applicable, CONTRACTOR represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008 and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term

"employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the EVerify Program. CONTRACTOR agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, CONTRACTOR agrees to provide a copy of each such verification. CONTRACTOR further represents and warrants that any person assigned to

perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject CONTRACTOR to the following:

- (a) termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- (b) the loss of any license, permit, certification, or other document granted to CONTRACTOR by an agency, department, or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
- (c) both. In the event of such cancellation/termination, CONTRACTOR would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit to do business in the State.

#### **Article VIII. AVAILABILITY OF FUNDS**

It is expressly understood and agreed that the obligation of the SECRETARY to proceed under this Agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing time fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the SECRETARY, the SECRETARY shall have the right upon ten (10) working days written notice to CONTRACTOR, to terminate this Agreement without damage, penalty, cost or expenses to the SECRETARY of any kind whatsoever. The effective date of termination shall be specified in the notice of termination.

#### **Article IX. APPLICABLE LAW**

This contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of law's provisions, and any litigation with respect thereto shall be brought in the courts of the State. CONTRACTOR shall comply with applicable federal, state, and local laws and regulations.

#### **Article X. ASSIGNABILITY AND SUBCONTRACTING**

CONTRACTOR shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of SECRETARY thereto. None of the work or services covered by this Agreement shall be subcontracted without prior written approval by SECRETARY.

#### **Article XI. ATTORNEY'S FEES AND EXPENSES**

Subject to other terms and conditions of this Agreement, in the event CONTRACTOR defaults in any obligations under this Agreement, CONTRACTOR shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the

State in enforcing this Agreement or otherwise reasonably related thereto. CONTRACTOR agrees that under no circumstances shall SECRETARY be obligated to pay any attorney's fees or costs of legal action to CONTRACTOR.

## **Article XII. AUTHORITY TO CONTRACT**

CONTRACTOR warrants:

- (a) it is either a sole proprietor or validly organized business with valid authority to enter into this Agreement;
- (b) it is qualified to do business and is in good standing with the State of Mississippi, if required;
- (c) entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and
- (d) notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

## **Article XIII. CHANGES**

SECRETARY may, from time to time, require and request changes in the scope of services of CONTRACTOR to be performed hereunder. Such changes, including any increase or decrease in the amount of CONTRACTOR'S compensation which are mutually agreed upon by and between the parties, shall be included in written amendments to this Agreement.

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this Agreement. All modifications to this Agreement must be made in writing and agreed upon by both parties.

## **Article XIV. COMPLIANCE WITH LAWS**

CONTRACTOR understands that the SECRETARY is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful, and CONTRACTOR agrees during the term of the agreement that CONTRACTOR will strictly adhere to this policy in its employment practices and provision of services. CONTRACTOR shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

## **Article XV. CONFIDENTIALITY**

Any writings, reports, forms, information, ideas, data, electronic or otherwise given to, prepared by, or in any way generated, accomplished, or accessed by CONTRACTOR in carrying out the terms of

this Agreement shall be kept confidential by CONTRACTOR and no such information shall be made available to any individual, organization, or otherwise by CONTRACTOR without the prior written approval of SECRETARY.

#### **Article XVI. FAILURE TO ENFORCE**

The failure by SECRETARY at any time to enforce the provisions of this Agreement shall not be construed as a waiver of such provision. Such failure to enforce shall not affect the validity of this Agreement or any part thereof or the right of SECRETARY to enforce the provision at any time in accordance with its terms.

#### **Article XVII. INSURANCE**

CONTRACTOR shall maintain, at its own expense, the following insurance coverage in the amounts specified, insuring CONTRACTOR, its employees, agents, designees, subcontractors, and any indemnities as required herein:

- (a) Professional Liability insurance in an amount not less than One Million Dollars (\$1,000,000.00), including personal injury, bodily injury (including both disease and death), property damages and blanket contractual liability; and
- b) Comprehensive general liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) for each occurrence with the State of Mississippi added as an additional insured; and
- c) Employee fidelity bond insurance in an amount not less than Three Hundred Thousand dollars (\$300,000.00); and
- d) Workers' compensation insurance in the amounts required pursuant to the laws of the State of Mississippi.

CONTRACTOR shall furnish SECRETARY with a certificate of conformity providing the aforesaid coverage within ten (10) days of execution of this Agreement. It is understood by the parties that in the event CONTRACTOR fails to secure such insurance and providing the certificate evidencing same, the SECRETARY, at its sole option, may terminate this Agreement immediately without further notice to the

CONTRACTOR.

All insurance policies required herein shall be issued by an insurance company or companies licensed to do business in the State of Mississippi and acceptable to SECRETARY. No policy of insurance may be cancelled or reduced during the course of this Agreement. Modification to the policy of insurance must have written notification to SECRETARY prior to modification.

#### **Article XVIII. ITEMIZED SERVICES AND INSPECTION OF BOOKS AND RECORDS**

CONTRACTOR shall submit to SECRETARY at such times and in such form and manner as SECRETARY may direct, an itemized invoice for services rendered in an amount compatible with

the consideration fixed herein. SECRETARY shall have the right to request additional information pertaining to each itemized invoice.

SECRETARY shall have the right to inspect and audit the books and records of CONTRACTOR. Such books and records shall be retained and maintained by CONTRACTOR for a minimum of three (3) years following the termination of or the expiration of this Agreement.

**Article XIX. COMPLIANCE WITH ENTERPRISE SECURITY POLICY**

CONTRACTOR and SECRETARY understand and agree that all products and services provided by CONTRACTOR under this Agreement must be and remain in compliance with the State of Mississippi's Enterprise Security Policy. The parties understand and agree that the State's Enterprise Security Policy is based on industry-standard best practices, policy, and guidelines at the time of contract execution. The State reserves the right to introduce a new policy during the term of this Agreement and require CONTRACTOR to comply with same in the event the industry introduces more secure, robust solutions or practices that facilitate a more secure posture for the State of Mississippi.

**Article XX. NOTICES**

Any notice required or permitted to be given under this Agreement shall be in writing and personally delivered or sent by electronic means provided that the original of such notice is sent by certified United States mail, postage prepaid, return receipt requested, or overnight courier with signed receipt, to the party to whom the notice should be given at its business listed herein. Notice shall be deemed given when received or when refused. SECRETARY and CONTRACTOR agree to promptly notify each other in writing of any change of address.

**For SECRETARY**

Mississippi Secretary of State  
Attn: Laura Furdge  
Post Office Box 136  
Jackson, Mississippi 39205-0136

**For CONTRACTOR**

Contractor  
Attn:  
Contractor's Address

**Article XXI. REPRESENTATION REGARDING CONTINGENT FEES**

CONTRACTOR represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in CONTRACTOR'S bid or proposal.

**Article XXII. REPRESENTATION REGARDING GRATUITIES**

The bidder, offeror, or CONTRACTOR represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.

**Article XXIII. ACKNOWLEDGEMENT OF AMENDMENT**

Bidders shall acknowledge receipt of any amendment to the solicitation by signing and returning the amendment with the bid, by identifying the amendment number and date in the space provided for this purpose on the bid form, or by letter. The acknowledgement must be received by the SECRETARY by the time and at the place specified for receipt of bids.

**Article XXIV. PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES**

The prospective CONTRACTOR represents as a part of such CONTRACTOR'S bid or proposal that such CONTRACTOR has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.

**Article XXV. SOVEREIGN IMMUNITY**

By entering into this Agreement with CONTRACTOR, the State of Mississippi does in no way waive its sovereign immunities or defenses as provided by law.

**Article XXVI. STOP WORK ORDER**

A. *Order to Stop Work:* The SECRETARY, may, by written order to CONTRACTOR at any time, and without notice to any surety, require CONTRACTOR to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to CONTRACTOR unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, CONTRACTOR shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Chief Procurement Officer shall either:

- (a) cancel the stop work order; or
- (b) terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.

B. *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, CONTRACTOR shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or CONTRACTOR price, or both, and the contract shall be modified in writing accordingly, if:

- (a) The stop work order results in an increase in the time required for, or in CONTRACTOR'S cost properly allocable to, the performance of any part of this contract; and,

- (b) CONTRACTOR asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the SECRETARY decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
- C. *Termination of Stopped Work*: If a stop work order is not cancelled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
- D. *Adjustments of Price*: Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract, if any.

#### **Article XXVII. TERMINATION FOR CONVENIENCE**

- A. *Termination*. The SECRETARY may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. SECRETARY shall give written notice of the termination to CONTRACTOR specifying the part of the contract terminated and when termination becomes effective.
- B. *CONTRACTOR's Obligations*: CONTRACTOR shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination CONTRACTOR will stop work to the extent specified. CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated work. CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The SECRETARY may direct CONTRACTOR to assign CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the State. CONTRACTOR must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

#### **Article XXVIII. TERMINATION FOR DEFAULT**

- A. *Default*: If CONTRACTOR refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract's provisions, or commits any other substantial breach of this contract, the SECRETARY may notify CONTRACTOR in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the SECRETARY, such officer may terminate CONTRACTOR'S right to proceed with this contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the SECRETARY may procure similar supplies or services in a manner and upon terms deemed appropriate by the SECRETARY. CONTRACTOR shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

- B. *CONTRACTOR's Duties*: Notwithstanding termination of the contract and subject to any directions from the SECRETARY, CONTRACTOR shall take timely, reasonable, and necessary action to protect and preserve property in the possession of CONTRACTOR in which the State has an interest.
- C. *Compensation*: Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due CONTRACTOR such sums as the SECRETARY deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.
- D. *Excuse for Nonperformance or Delayed Performance*: Except with respect to defaults of subcontractors, CONTRACTOR shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by CONTRACTOR to make progress in the prosecution of the work hereunder which endangers such performance) if CONTRACTOR has notified the SECRETARY within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, CONTRACTOR shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit CONTRACTOR to meet the contract requirements. Upon request of CONTRACTOR, the SECRETARY shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, CONTRACTOR'S progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).
- E. *Erroneous Termination for Default*: If, after notice of termination of CONTRACTOR'S right to proceed under the provisions of this clause, it is determined for any reason that the **contract was not in default under the provisions of this clause**, or that the **delay was excusable** under the provisions of Paragraph (D) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, **be the same as if the notice of termination had been issued pursuant to a termination for convenience**.

F. *Additional Rights and Remedies*: The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**Article XXIX. TERMINATION UPON BANKRUPTCY**

This contract may be terminated in, whole or in part, by the SECRETARY upon written notice to CONTRACTOR, if CONTRACTOR should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by CONTRACTOR of an assignment for the benefit of its creditors. In the event of such termination, CONTRACTOR shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.

**Article XXX. SEVERABILITY**

If any term or provision of this Agreement is prohibited by the laws of the State of Mississippi or declared invalid or void by a court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law provided the State's purpose for entering into this Agreement can be fully achieved by the remaining portions of the Agreement that have not been severed.

**Article XXXI. TRANSPARENCY**

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983", and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.* and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by CONTRACTOR as trade secrets, or other proprietary information, including confidential vendor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

**Article XXXII. TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION**

It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

**Article XXXIII. ENTIRE AGREEMENT**

This Agreement, including any exhibits (which are specifically incorporated herein by this reference), contains the entire agreement of the parties with respect to the subject matter hereof and supersedes

and replaces any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter thereof.

This Agreement made by and between the parties hereto shall consist of and precedence is hereby established by the order of the following:

- a. This AGREEMENT signed by the parties, and
- b. EXHIBIT A - Specifications
- c. EXHIBIT B – Bid Form
- d. EXHIBIT C – Reprints Bid Form
- e. EXHIBIT D – Service Agreement
- f. EXHIBIT E - Confidentiality and Non-Disclosure Addendum

**Article XXXIV. FORCE MAJEURE**

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war or terrorism, epidemics, pandemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (the “Force Majeure Events”). When such a cause arises, the CONTRACTOR shall notify the SECRETARY immediately in writing of the cause of its inability to perform; how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate this Agreement.

For the faithful performance of the terms of this Agreement, the parties hereto have caused this Agreement to be executed by their undersigned authorized representatives.

\_\_\_\_\_  
Michael Watson  
Mississippi Secretary of State

\_\_\_\_\_  
Contractor’s Authorized Signee  
Contractor

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**Michael Watson**  
**SECRETARY OF STATE**

**Exhibit E**

**Confidentiality and Non-Disclosure Addendum  
To the Service Agreement between SECRETARY and CONTRACTOR  
As used herein, the term Agreement  
includes the executed Agreement between the parties and this Exhibit E.**

**This Confidentiality and Non-Disclosure Addendum dated this \_\_\_\_\_ day of \_\_\_\_\_, 21\_\_ (herein referred to as a “Confidentiality Addendum”)**

**BETWEEN:**

Mississippi Secretary of State’s Office (“SECRETARY”) of  
401 Mississippi Street, Jackson, Mississippi 39201  
OF THE FIRST PART

**-AND-**

(“CONTRACTOR”)  
of  
Contractor’s  
Address  
OF THE SECOND PART

**BACKGROUND:**

Pursuant to the Agreement, CONTRACTOR has been retained as an independent CONTRACTOR with SECRETARY to provide the services outlined in the Agreement. CONTRACTOR is responsible for the provision of services as outlined in Article (I) one of the Agreement.

**IN CONSIDERATION OF** and as a condition of SECRETARY retaining CONTRACTOR and providing access to applications and confidential information to CONTRACTOR in addition to other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Confidentiality Addendum agree as follows:

### **Confidential Information**

1. CONTRACTOR acknowledges that pursuant to the Agreement, CONTRACTOR will, or may, be making use of, acquiring or adding to the information about certain matters and things which are confidential to SECRETARY and which information is the exclusive property of SECRETARY, including, without limitation:
  - a. “Confidential information” means all data and information relating to the business and management of SECRETARY, including proprietary and trade secret technology and accounting records to which access is obtained by Proprietary Data, Business Operations, Computer Software, Computer Technology, Marketing and Development Operations, and Customers. Confidential information will also include any information which has been disclosed by a third party to the SECRETARY and which is subject to a non-disclosure agreement between said third party and SECRETARY; in such cases SECRETARY must advise CONTRACTOR of said non-disclosure agreement and SECRETARY considers information provided to CONTRACTOR in accord with the Agreement to be Confidential Information as defined here. Confidential information will not include information that:
    - i. Is generally known in the industry;
    - ii. Is now or subsequently becomes generally available to the public through no wrongful act of the CONTRACTOR;
    - iii. CONTRACTOR had in its possession prior to any disclosure by SECRETARY to CONTRACTOR pursuant to the Agreement; iv. Is independently created by CONTRACTOR without direct or indirect use of the Confidential Information; or
    - v. CONTRACTOR rightfully obtains from a third party who has the right to transfer or disclose it.
  - b. “Work Product” means work product resulting from or related to work or projects performed for SECRETARY or for clients of SECRETARY pursuant to the Agreement, of any type or form in any stage of actual research and development;
  - c. “Production Processes” means processes used in the creation, production and manufacturing of the Work Product, including but not limited to formulas, patterns, molds, models, methods, techniques, specifications, processes, procedures, equipment, devices, programs, and designs;
  - d. “Other Proprietary Data” means information relating to SECRETARY’s proprietary rights prior to any public disclosure of such information, including but not limited to the nature of the proprietary rights, production, data, technical and engineering data, technical concepts, test data and test results, simulation results, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights and trade secrets);
  - e. “Business Operations” means internal personnel and financial information, vendor names and other vendor information (including vendor characteristics, services and agreements), purchasing and internal cost information, internal services and operational manuals, and the manner and methods of conducting SECRETARY’s business;
  - f. “Computer Software” means all sets of statements, instructions or programs whether in human readable or machine readable form, that are expressed, fixed, embodied or stored in any manner and that can be used directly or indirectly in a computer;

- g. "Computer Programs"; any report format, design or drawing created or produced by such Computer Programs; and all documentation, design specifications and charts, and operating procedures which support the Computer Programs;
- h. "Computer Technology" means all scientific and technical information or material pertaining to any machine, appliance or process, including specifications, proposals, models, designs, formulas, test results and reports, analyses, simulation results, tables of operating conditions, materials, components, industrial skills, operating and testing procedures, shop practices, know-how and show-how; and,
- i. "Customers" means names of customers and their representatives, contracts and their contents and parties, customer services, data provided by customers and the type, quantity and specifications of products and services purchased, leased, licensed or received by clients of SECRETARY.

### **Confidential Obligations**

- 2. Except as otherwise provided in this Confidentiality Addendum, the Confidential Information will remain the exclusive property of SECRETARY; and will only be used by CONTRACTOR for the permitted purpose. The CONTRACTOR will not use the Confidential Information for any purpose other than for the services provided pursuant to the Agreement.
- 3. The obligations to ensure and protect the confidentiality of the Confidential Information imposed on the CONTRACTOR in this Confidentiality Addendum and any obligations to provide notice under the Agreement will survive the expiration or termination of the Agreement and said obligations will continue for a period of two (2) years from the date of such expiration or termination.
- 4. The CONTRACTOR may disclose any of the Confidential Information:
  - a. To such of its employees, agents, representatives and advisors that have a need to know for the Permitted Purpose provided that:
    - i. CONTRACTOR has informed such personnel of the confidential nature of the Confidential Information; ii. Such personnel agree to provide the same level of confidentiality, non-use and nondisclosure as CONTRACTOR has agreed to provide in this Confidentiality Addendum; and
    - iii. CONTRACTOR agrees to take all necessary steps to ensure that the terms of this Addendum and Agreement are not violated by such personnel.
  - b. To a third party where SECRETARY has consented in writing to such disclosure; and
  - c. To the extent required by law or by the request or requirement of any judicial, legislative, administrative, or other governmental body.
- 5. CONTRACTOR agrees to indemnify and defend SECRETARY from claims that arise from CONTRACTOR's unauthorized disclosure or dissemination of Confidential Information in violation of this Confidentiality Addendum.

### **Employee Non-Solicitation**

- 6. Both parties agree not to engage in any attempt to hire, or to engage as independent CONTRACTORS, the

other's employees during the term of the Agreement and for the period ending two (2) years after termination of the Agreement, except as may be otherwise agreed to in writing by both parties.

**Ownership and Title**

7. CONTRACTOR acknowledges and agrees that all rights, title and interest, including any copyright rights, in any Confidential Information will remain the exclusive property of SECRETARY.
8. This Confidentiality Addendum will not apply in respect of any intellectual property, process, design, development, creation, research, invention, know-how, trade names, trademarks, or copyrights for which:
  - a. No equipment, supplies, facility, or Confidential Information of SECRETARY was used,
  - b. Was developed entirely on CONTRACTOR's own time, and not derived from Confidential Information provided to the CONTRACTOR by SECRETARY.
9. Subject always to payment by SECRETARY in full of all fees and expenses in accordance with the terms hereof; the CONTRACTOR shall, if requested, assign to SECRETARY at the sole cost of SECRETARY, all rights, title and interest it may have in the Developed Work Product, including, without limitation, any intellectual property rights inherent therein or relating thereto. Provided that, since the development of the Work Product will require the experience and skills of the CONTRACTOR as a software CONTRACTOR, irrespective that the Work Product will be developed in accordance with SECRETARY's Specifications, CONTRACTOR shall retain the rights to use the algorithms, know-how, ideas, techniques and concepts used by it in developing the Work Product.
10. If a court of competent jurisdiction finds any of the provisions of this Confidentiality Addendum to be unenforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary to make the provision reasonable and enforceable.
11. No failure or delay by SECRETARY in exercising any power, right or privilege provided in the Agreement or this Confidentiality Addendum will operate as a waiver, nor will any single or partial exercise of such rights, powers or privileges preclude any further exercise of them or the exercise of any other right, power or privilege provided in the Agreement or this Confidentiality Addendum.
12. This Confidentiality Addendum will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors, and assigns, as the case may be, of SECRETARY and the CONTRACTOR.
13. This Confidentiality Addendum may be executed in counterparts.
14. Time is of the essence in this Confidentiality Addendum.

\_\_\_\_\_  
Michael Watson  
Mississippi Secretary of State

\_\_\_\_\_  
Contractor's Authorized Signee  
Contractor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

